

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN RE FRANKLIN BANK CORP.  
SECURITIES LITIGATION § CIVIL ACTION NO. 4:08-CV-1810  
§ CLASS ACTION

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**MOTION FOR RELIEF FROM ABATEMENT AND TO SET A SCHEDULE**

COMES NOW, Plaintiff The Harold Roucher Trust ("The Trust"), Lead Plaintiff for the Preferred Stock Purchaser Class, on behalf of itself and all others similarly situated, and respectfully submits this motion for relief from abatement of the schedule and for a new schedule.

This case involves two groups of plaintiffs, common stock purchasers and preferred stock purchasers of the securities of the now-defunct Franklin Bank FSB. By agreement of the parties and because of substantive differences between the classes asserted, these two groups have filed separate complaints. Among the differences between the two groups is that they assert different class periods and different claims.

A schedule previously set in this case called for Defendants to respond to the two separate complaints on or before October 16, 2009. That schedule was abated after the parties agreed to mediate the case. Notwithstanding that extensive arrangements were made by all parties, the FDIC – a non-party herein whom certain Defendants believe is a necessary part of any mediation -- was unable or unwilling to attend. Accordingly, the mediation has been cancelled and the parties now need a pretrial schedule addressed to the pleadings and any dispositive motion practice directed to the pleadings.

The parties have been unable to work out a proposal for scheduling at this time. Accordingly, the preferred stock purchasers respectfully request that the Court set a schedule for Defendants to respond to Preferred Stock Purchaser complaint. Expedited consideration of this motion is respectfully requested.

WHEREFORE, PREMISES CONSIDERED, Plaintiff, The Harold Roucher Trust, respectfully requests that the Court enter an order setting a schedule for responses to the preferred stock complaint and any briefing on a motion to dismiss.

Dated this 17<sup>th</sup> day of November, 2009.

Respectfully submitted,

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**CERTIFICATE OF CONFERENCE**

Counsel for Plaintiff the Harold Roucher Trust and defense counsel have conferred regarding the relief sought in the foregoing Motion. The parties were unable to reach any agreement and this Motion is therefore considered opposed.

/s/ Roger B. Greenberg

Roger B. Greenberg

**CERTIFICATE OF SERVICE**

I certify that on November 17, 2009, a copy of the foregoing ***Motion for Relief from Abatement and to Set Schedule*** was served on the following counsel via the Court's ECF system as indicated below:

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